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To: Microsoft ATR
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Subject: Microsoft Settlement

To begin my comments on the Proposed Final Judgment (PFJ) to the Microsoft case, I assert that I am a US Citizen and resident of the state of Illinois.

I have read through several parts of the PFJ. Clearly it imposes restrictions on Microsoft. However upon reflection, and after reading several online critiques of the PFJ, I have come to the conclusion that these restrictions are insufficient.

One item in particular stood out from the others. The PFJ requires Microsoft to disclose certain "APIs" under reasonable and non-discriminatory licensing terms to competing software companies wishing to interoperate with Microsoft products. The problem with this is that "reasonable and non-discriminatory" terms seem to inherently discriminate against one specific Microsoft competitor known as Free software or open source software.

It can be argued that Free or open source software is the chief competitor to the Microsoft monopoly. The Linux operating system, widely seen as a Microsoft competitor, falls under the category of Free software. Free and open source software are unique in that unlike the products of Microsoft they may be obtained at little to no cost and redistributed indefinitely. Free software products defy the concept of "ownership" as everyone has the right to copy, change, or redistribute the software (unlike Microsoft software).

With this in mind, it should become clear that "reasonable and non-discriminatory" license terms discriminate against Free and open source software. Any sort of royalty fee Microsoft may wish to impose when it licenses its APIs to competitors would render Free and open source competition impossible. Because it can be redistributed freely, and because it is difficult to define an "owner", any piece of Free software wishing to use a Microsoft API to compete with an existing Microsoft product cannot possibly hope to satisfy the terms of the license under which Microsoft divulged its API.

For example, consider a Free software product which uses a Microsoft API and must pay a royalty of one cent (\$0.01) per copy of the software. Since the software is Free, a user obtaining a copy is free to make copies of his own with no limit. Obviously the product cannot pay the royalty to Microsoft because anyone in possession of a copy is free to make more copies and give these to others who can then make more copies ad nauseum.

So it seems that the PFJ gives Microsoft a "license to discriminate" against what many consider to be its chief competition. In my opinion this does not server the public and must be remedied.

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